

## Chapter CCLXVII.<sup>1</sup>

### CONSIDERATION OF CONFERENCE REPORTS.

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1. Reports and statements printed in the Record. Sections 3298, 3299.
  2. The pending question. Section 3300.
  3. Original bill and amendments must be before the House. Sections 3301, 3302.
  4. Effect of rejection of report. Section 3303.
  5. Must be acted on as a whole without amendment. Sections 3304–3307.
  6. Amendment of, by concurrent action by both Houses. Sections 3308, 3309.
  7. Recommital of. Sections 3310–3328.
  8. Reports of inability to agree. Section 3329.
  9. Custody of papers and report after failure to agree. Sections 3330–3332.
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**3298. A conference report and the accompanying statement must be correctly printed in the Record, and although the original report and statement are correct, an error in printing either renders it subject to the point of order that it does not comply with the rule.**—On April 25, 1912,<sup>2</sup> Mr. William Sulzer, of New York, called up the conference report on the diplomatic and consular appropriation bill, when Mr. Courtney W. Hamlin, of Missouri, made the point of order that the statement was not correctly printed in the Record.

Mr. Sulzer characterized the point of order as a mere technicality and explained that the original copy was correct and the discrepancies in the printed version appearing in the Record were due to errors on the part of the printer.

The Speaker<sup>3</sup> sustained the point of order and held that the report and the statement had not been printed in the Record as required by the rule until they were printed correctly.

**3299. When conferees report that they have been unable to agree, the report is not acted on, and need not be printed in the Record before the amendments in disagreement are again taken up in the House.**

**Form of report of conferees on general disagreement.**

On July 14, 1932,<sup>4</sup> Mr. Henry T. Rainey, of Illinois, submitted the following:

CONFERENCE REPORT

The committee on conference on the disagreeing votes of the two Houses on the bill (H. R. 9642) to authorize supplemental appropriations for emergency highway construction, with a view to increasing employment, having met, after full and free conference, have been unable to agree.

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<sup>1</sup> Supplementary to Chapter CXXXVII.

<sup>2</sup> Second session Sixty-second Congress, Record, p. 5330.

<sup>3</sup> Champ Clark, of Missouri, Speaker.

<sup>4</sup> First session Seventy-second Congress, Record, p. 15378.

## STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (H. R. 9642) to authorize supplemental appropriations for emergency highway construction, with a view to increasing employment, submit the following written statement:

The committee of conference between the two Houses have been unable to reach any conclusion.

Mr. Bertrand H. Snell, of New York, objected that the conference report had not been printed in the Record.

The Speaker<sup>1</sup> explained.

This is the first experience the present occupant of the Chair has had in these matters. The Chair thinks that where the conferees report that they have been unable to agree it is not necessary to act upon the conference report. The Chair is supported in that by a decision made by Mr. Speaker Reed, which may be found in Hinds' Precedents, Volume V, section 6562. Therefore, the Chair thinks that under these circumstances, where there is nothing in the conference report to agree to, the rule providing for printing in the Record would not apply and that the matter could be disposed of immediately after the reading of the report.

The Clerk having read the report, Mr. Rainey moved that the House further insist on its amendment to the Senate amendment numbered 1 and insist on its disagreement to Senate amendment numbered 2.

Mr. Carl E. Mapes, of Michigan, inquired whether agreement to the motion would put the House in any different position than that in which it found itself before the conferees reported.

The Speaker said:

If the House insists upon its amendment to the Senate amendment, the matter will go back to the Senate for such action as they want to take. The House acted upon this yesterday, insisting on the House amendment and asking a conference. This motion, if agreed to, will send the bill back to the Senate and will give the Senate another opportunity to consider the House amendment.

**3300. A conference report being presented, the question on agreeing to it is regarded as pending.**—On September 15, 1922,<sup>2</sup> the Senate was considering the conference report on the bill (H. R. 10874) to provide adjusted compensation for veterans of the World War, when the President pro tempore<sup>3</sup> put the question on agreeing to the conference report.

Mr. Pat Harrison, of Mississippi, objected that no motion to agree to the report had been made.

The President pro tempore overruled the point of order and held that when a conference report was taken up for consideration the question on agreeing to the report was automatically before the Senate.

Mr. Harrison having appealed from the decision of the Chair, the yeas were 33, the nays were 21, and the decision of the Chair stood as the judgment of the Senate.

**3301. A conference report may not be considered when the original bill and accompanying papers are not before the House.**—On September 14, 1922;<sup>4</sup>

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<sup>1</sup> John N. Garner, of Texas, Speaker.

<sup>2</sup> Second session Sixty-seventh Congress, Record, p. 12683.

<sup>3</sup> Albert B. Cummins, of Iowa, President pro tempore.

<sup>4</sup> Second session Sixty-seventh Congress, Record, p. 12566.

the President pro tempore laid before the Senate a message from the House of Representatives notifying the Senate that the House had recommitted the tariff bill to the committee of conference with instructions to its managers to agree to the Senate amendments putting potash on the free list and striking out the dye embargo.

Mr. Porter J. McCumber, of North Dakota, made the point of order that it was not necessary for the Senate to take action on the message.

After debate, the President pro tempore<sup>1</sup> sustained the point of order and said:

A point of order has been made the Chair sustains the point of order.

Allow the Chair to state the reason why the point of order is sustained. It is because there was laid before the Senate merely the notice from the House with regard to its action on the conference report upon the tariff bill, but there is before the Senate what is known as the grain futures bill.

It is the understanding of the Chair that the House granted the conference, that the papers are therefore with the House, and that the report must be first made and first acted upon in the House.

**3302. While a conference report may not be considered when the original papers are not before the House, the failure of the Clerk to certify to their authenticity may be remedied when the question is raised, and does not invalidate proceedings relating to them.**

**Members of a committee of conference may not file supplemental reports nor submit minority views.**

On January 17, 1913,<sup>2</sup> Mr. John L. Burnett, of Alabama, called up the conference report on the bill (S. 3175), the immigration bill.

The Speaker<sup>3</sup> said:

The Chair is of the impression that a minority Member, under the rules or precedents, can not file a minority report, although the Chair recollects that he himself, as a member of a conference committee, threatened to do it once on a very serious question.

The Chair will state that he investigated that matter some years ago, because he was on a conference and there was a very bitterly contested proposition, and the present occupant of the chair then threatened to file a minority report. He investigated the authorities as best he could at that time and found out that he could not make a minority report under the rules and precedents.

The Chair rules that way. Of course, if the gentleman from Illinois does not sign the conference report, that shows prima facie that he is against it.

Thereupon, Mr. James R. Mann, of Illinois, made the point of order that the conference report could not be received until the original papers were in possession of the House, and that there was no evidence that all the original papers were before the House for the reason that the Clerk had failed to certify the resolution transmitting the House amendment to the Senate.

The Speaker overruled the point of order, saying:

The House part that is attached to the original Senate bill does not seem to have been attested by the House Clerk. If we can get hold of him we can have him sign it nunc pro tunc. The Speaker

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<sup>1</sup> Albert B. Cummins, of Iowa, President pro tempore.

<sup>2</sup> Third session Sixty-second Congress, Record, p. 1683.

<sup>3</sup> Champ Clark, of Missouri, Speaker.

has never investigated it, but he thinks he would have the same power in that kind of a case that a nisi prius judge has.

This document, purporting to be the conference report, has been read. The Chair does not have any doubt the right of the Speaker to order the Clerk to sign that document.

Here is the situation: We have a certified copy of the Senate bill. Then we have the conference report sent over by the Senate, with this House amendment, striking out all after the enacting clause and enacting a new law, so far as the House could make a law, and the Clerk failed to sign it. But the fact that the Senate bill has come back here attached to the House amendment seems to the Chair to be reasonable proof that the document that purports to be the report from the House that is included in this bundle of papers it is the same document that the Clerk sent over to the Senate.

Now comes the Clerk of the House and attests it.

The gentleman from Illinois is a lawyer and has seen a hundred times, if not more, orders entered nunc pro tunc in a nisi prius court without objection from anybody. If there was any doubt about this being the correct paper, of course, we would not tolerate it for a second.

**3303. A conference report having been rejected, motions for disposition of matter in disagreement and further conference are privileged.**—On April 20, 1922,<sup>1</sup> the House rejected the conference report on the independent offices appropriation bill, yeas 140, nays 154.

Thereupon, Mr. William R. Wood, of Indiana, asked unanimous consent for the immediate consideration of the matters in disagreement.

Mr. Finis J. Garrett, of Tennessee, objected to the request. Mr. Frank W. Mondell, of Wyoming, submitted that unanimous consent was not necessary, and the conference report having been rejected, motions for the disposition of the Senate amendments in dispute were privileged.

The Speaker pro tempore<sup>2</sup> sustained the latter contention and recognized Mr. Wood to move for disposition of the Senate amendments and further conference.

**3304. A conference report must be acted on as a whole.**—On June 26, 1919,<sup>3</sup> the Senate was considering the conference report on the agricultural appropriation bill.

Mr. Aisle J. Gronna, of North Dakota, moved to agree to a part of the report. The President pro tempore<sup>4</sup> ruled:

The Chair will state that the only question than can be before the Senate is the question of agreeing or disagreeing to the conference report as a whole.

**3305.** On June 29, 1916,<sup>5</sup> in the Senate, Mr. Thomas S. Martin, of Virginia, submitted the conference report on the sundry civil appropriation bill.

Mr. John E. Martine, of New Jersey, moved to disagree to a portion of the report striking out an amendment which he had introduced and that the conferees be instructed to insist on the disagreement.

Mr. Martin raised a question of order against the motion.

The Vice President<sup>6</sup> sustained the point of order and said:

There can be no question but that the report must be agreed to as a whole or rejected as a whole.

<sup>1</sup>Second session Sixty-seventh Congress, Record, p. 6301.

<sup>2</sup>William J. Graham, of Illinois, Speaker pro tempore.

<sup>3</sup>First session Sixty-sixth Congress, Record, p. 1821.

<sup>4</sup>Joseph S. Frelinghuysen, of New Jersey, President pro tempore.

<sup>5</sup>First session Sixty-fourth Congress, Record, p. 10221.

<sup>6</sup>Thomas R. Marshall, of Indiana, Vice President.

**3306. A conference report is not subject to amendment, but must be considered and disposed of as a whole.**—On May 17, 1917,<sup>1</sup> the Senate had under consideration the conference report on the bill (H. R. 3545) to authorize the President to increase the Military Establishment.

In the course of the debate, Mr. William J. Stone, of Missouri, as a parliamentary inquiry, desired to know when it would be in order to move to amend provisions of the conference report.

The Vice President<sup>2</sup> held that a conference report is not subject to amendment, but must be considered and acted on as a whole.

**3307. A question of order may not be sustained against a portion of a conference report without affecting the entire report, and modification can only be effected by rejection of the report and instruction of a new conference or, when the managers on the part of the Senate have not been discharged, by a motion to recommit with instructions.**—On May 15, 1920,<sup>3</sup> Mr. Stephen G. Porter, of Pennsylvania, called up the conference report on the diplomatic and consular appropriation bill.

The report having been read, Mr. Isaac Siegel, of New York, made a point of order that the conferees had exceeded their authority by including in the report matter relating to fees for passports and visas, which were not in disagreement between the two Houses.

After debate, Mr. Nicholas Longworth, of Ohio, as a Parliamentary inquiry, asked if the point of order was not directed at a certain portion of the conference report and not intended to apply to the remainder of the report.

Mr. Siegel dissented, and insisted that the point of order must lie against the entire report.

The Speaker<sup>4</sup> ruled:

If any point of order is made, it is made against the whole conference report.

The Speaker then overruled the point of order.

Whereupon, Mr. Tom Connally, of Texas, inquired what steps could be taken to eliminate objectionable portions of a conference report.

The Speaker replied:

There are two ways. The conference report could be voted down, and then everything would be open; or it has been held in recent years that a motion to recommit is in order, if the Senate has not acted on the conference report.

If the Senate has acted, there can not be a motion to recommit. The only course would be to vote down the conference report. The question is on agreeing to the conference report.

**3308. Conference reports may be amended by concurrent action of the two Houses.**—On February 27, 1931,<sup>5</sup> on motion of Mr. George S. Graham, of

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<sup>1</sup>First session Sixty-fifth Congress, Record, p. 2435.

<sup>2</sup>Thomas R. Marshall, of Indiana, Vice President.

<sup>3</sup>Second session Sixty-sixth Congress, Record, p. 7123.

<sup>4</sup>Frederick H. Gillet, of Massachusetts, Speaker.

<sup>5</sup>Third session Seventy-first Congress, Record, p. 6279.

Pennsylvania, by unanimous consent, the House proceeded to the consideration of the concurrent resolution (H. Con. Res. 52) reading as follows:

*Resolved by the House of Representatives (the Senate concurring),* That the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House (H. R. 980) entitled "An act to permit the United States to be made a party defendant in certain cases," heretofore agreed to by the two Houses, be amended by adding at the end of the amendment agreed to in the report the following new section:

"SEC 7. This act shall not apply to any lien of the United States held by it or for its benefit under the Federal reclamation laws."

**3309. A concurrent resolution providing for recommitment to conference is not privileged for introduction from the floor.**—On August 8, 1912,<sup>1</sup> during the consideration of the conference report on the legislative, executive, and judicial appropriation bill, Mr. Augustus P. Gardner, of Massachusetts, offered the following concurrent resolution:

*Resolved by the House of Representatives (the Senate concurring),* That House bill 24023 be recommitted to the committee on conference on the disagreeing votes of the two Houses.

Mr. John J. Fitzgerald, of New York, raised this question of order:

Mr. Speaker, I make the point of order that the resolution, being a concurrent resolution, can only be introduced, except by unanimous consent, through the basket, as it is not a privileged resolution. This rule is well established.

The Speaker<sup>2</sup> said:

The Chair thinks that the point of order is well taken. The Chair investigated this matter two or three days ago, not in anticipation of any trouble connected with this bill, but in connection with another bill, and certainly this resolution is not privileged. Therefore the Chair sustains the point of order. The question is on the adoption of the conference report.

**3310. It is in order for one body to recommit a conference report, if the other body, by action on the report, has not discharged its managers.** On February 16, 1921,<sup>3</sup> during consideration of the conference report on the bill (H. R. 11984) to increase salaries in the Patent Office, Mr. Schuyler Merritt, of Connecticut, moved to recommit the report to the committee of conference.

Mr. Thomas L. Blanton, of Texas, objected that the motion was not in order and, if recommitted, the bill should not go to the committee of conference, but to the standing committee of the House having jurisdiction.

The Speaker<sup>4</sup> dissented and said:

The Chair overrules the point of order. The conferees are not discharged until the conference report is agreed to, or something else happens. The question is on the motion of the gentleman from Connecticut to recommit the bill with instruction to disagree to section 9.

**3311. It is in order to recommit a conference report, if the other House by action on the report has not discharged its managers, and after the previous question is ordered on agreement, the motion to recommit with or without instructions is privileged.**—On June 10, 1929,<sup>5</sup> the previous question was

<sup>1</sup>Second session sixty-second Congress, record, p. 10500.

<sup>2</sup>Champ Clark, of Missouri, Speaker.

<sup>3</sup>Third session sixty-sixth Congress, Record, p. 3268.

<sup>4</sup>Frederick H. Gillet, of Massachusetts, Speaker.

<sup>5</sup>First session Seventy-first Congress, Record, p. 2616.

ordered on agreeing to the conference report on the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses.

Whereupon, Mr. John E. Rankin, of Mississippi, moved to recommit the conference report to the committee of conference with instructions to the managers on the part of the House to substitute May, 1930, for December, 1929, as the date for taking the census.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the motion was not admissible until the conference report had been disposed of.

The Speaker<sup>1</sup> said:

The Chair does not think there is any question at all that a motion to recommit is in order at this stage of the proceedings. The conferees are still in existence, and a motion to recommit can always be made after the previous question has been ordered. The question is on the motion of the gentleman from Mississippi.

**3312. After the previous question has been ordered on a conference report, the motion to recommit with instructions is privileged, if the other House has not discharged its conferees.**—On November 21, 1921,<sup>2</sup> the previous question was ordered on agreeing to the conference report on the revenue bill.

Thereupon, Mr. John N. Garner, of Texas, moved to recommit the conference report to the committee of conference with instructions to agree to Senate amendment No. 582, relating to rates of the estate tax.

Mr. Everett Sanders, of Indiana, raised a question of order against the motion and argued that, while the simple motion to recommit was privileged, the motion to recommit with instructions was not in order after the previous question was operating.

The Speaker pro tempore<sup>3</sup> ruled:

The gentleman from Texas offers a motion to recommit the conference report to the committee on conference, with instructions to the managers on the part of the House to concur in a certain Senate amendment.

The gentleman from Indiana makes the point of order that, the previous question having been ordered on the question of agreeing to the conference report, a motion to recommit with instructions is not in order. The Chair will state that under the rules of the House the adoption of the previous question, or its being adopted by unanimous consent, does not shut out one motion to recommit. The rules have been careful to preserve a motion to recommit, going to the extent of providing that the Committee on Rules may not report a rule which will shut out one motion to recommit. The question of recommitting a conference report to the committee on conference or to the managers on the part of the House is in some respects similar to recommitting a bill to one of the standing committees of the House, and while it is usual to recommit bills to the standing committees of the House with instructions, it is not always necessary that instructions be included in the motion to recommit.

In this instance the conference is, so to speak, still in existence; that is, at least until action has been had on the part of the House. The House being the body to which the conference report is first submitted by action in this particular case, the conferees are still subject to action by the House, if the House under a proper motion sees fit to instruct them or takes such other action as may be proper for their guidance.

The motion to recommit a conference report with instructions has been of comparatively recent origin. It has been permitted several times, and on February 16, 1921, the previous ques-

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<sup>1</sup>Nicholas Longworth, of Ohio, Speaker.

<sup>2</sup>First session Sixty-seventh Congress, Record, p. 8085.

<sup>3</sup>Joseph Walsh, of Massachusetts, Speaker pro tempore.

tion had been ordered on adopting a conference report on a bill to increase the salaries in the Patent Office. The gentleman from Connecticut, Mr. Merrit, at that time offered a motion to recommit the report to the committee on conference, with instructions not to agree to section 9 of the Senate bill, which happened to be section 11 in the conference report. A point of order was made at that time by the gentleman from Texas, Mr. Blanton, and the Speaker overruled the point of order, saying:

"The conferees are not discharged until the conference report is agreed to or something else happens."

In this instance the Chair thinks an analogous situation is presented, and he holds that the measure is still in a situation that if the House shall see fit to recommit it with instructions the conferees would be bound by such instructions.

The Chair overrules the point of order.

The question is upon the motion of the gentleman from Texas to recommit the conference report to the committee of conference with certain instructions.

**3313. A motion to recommit a conference report is not in order, if the other House by action on the report has discharged its managers.**—On March 3, 1915,<sup>1</sup> the Senate was considering the conference report on the naval appropriation bill when Mr. Henry F. Lippitt, of Rhode Island, moved to recommit the report to the committee of conference with instructions.

Mr. Claude A. Swanson, of Virginia, raised the question of order that the motion was not admissible for the reason that the House by agreeing to the report had discharged its managers.

The Vice President<sup>2</sup> held that the point of order was well taken and said:

The record shows that it has been agreed to in the other House.

It has been decided that when one House acts and agrees to a report and the conferees have been discharged there is no committee of conference.

There is no doubt about this question.

**3314.** On March 24, 1928,<sup>3</sup> on motion of Mr. James E. Watson, of Indiana, by unanimous consent, the Senate proceeded to the further consideration of the conference report on the bill (S. 2317) continuing for one year the powers and authority of the Federal Radio Commission under the radio act of 1927.

After debate, Mr. Kenneth McKellar, of Tennessee, moved to recommit the report to the committee of conference of the two Houses with instructions to the Senate conferees to insist on an amendment striking out a section of the radio act of 1927 and inserting in lieu thereof a section relating to equal zones of transmission and reception in radio broadcasting.

The Vice President<sup>4</sup> ruled:

The Chair will state that under the precedents governing the recommittal of conference reports a motion to recommit a conference report is not in order where the other House has agreed to the report, inasmuch as the conferees on the part of the body agreeing to the report have thereby been discharged.

<sup>1</sup> Third session, Sixty-third Congress, Record, p. 5236.

<sup>2</sup> Thomas R. Marshall, of Indiana, Vice President.

<sup>3</sup> First session Seventieth Congress, Record, p. 5304; Senate Journal, p. 295.

<sup>4</sup> Charles Curtis, of Kansas, Vice President.



**3315.** On June 15, 1933,<sup>1</sup> the legislative day of June 14, in the course of the consideration of the conference report on the fourth deficiency appropriation bill, in the Senate, Mr. Lynn J. Frazier, of North Dakota, presented a motion to recommit the report to the conferees.

The Presiding Officer<sup>2</sup> said:

The Chair is advised that under the rules where one House has approved a conference report, it can not be recommitted.

**3316. Either House having acted on a conference report, it may be recommitted only by concurrent action of the two Houses.**—On May 3, 1926,<sup>3</sup> on motion of Mr. Edward E. Denison, of Illinois, the proceedings by which the House had agreed to the conference report on the bill (H. R. 8771) to construct a bridge across the Detroit River, were vacated.

Subsequently, on the same day, Mr. Denison proposed to file an amended conference report correcting errors discovered by the enrolling clerk in the original report.

The Speaker<sup>4</sup> held that vacation of the proceedings by which the conference report had been agreed to left the report pending and a further conference report was not in order.

Whereupon,<sup>5</sup> Mr. Denison, proceeding by unanimous consent, offered the following:

*Resolved by the House of Representatives (the Senate concurring), That the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8771) to extend the times for commencing and completing the construction of a bridge across the Detroit River within or near the city limits of Detroit, Mich., be recommitted to the committee of conference.*

The concurrent resolution was agreed to and on the same day was adopted by the Senate, and an amended conference report was then filed.

**3317. Conference reports must be adopted or rejected as reported and any modifications however slight may be remedied only by recommitment<sup>6</sup> to the committee of conference.**—On June 30, 1919,<sup>7</sup> Mr. Thomas S. Butler, of Pennsylvania, called up the conference report on the naval appropriation bill, and preferred a request for unanimous consent to transpose the words “House” and “Senate,” as they appeared in the report. Mr. Butler explained that in the haste of transcription the Clerk had inadvertently used the wrong blank and the report, as prepared, indicated that in a number of instances the Senate had receded when in fact it was the House which had receded. Mr. Butler added that a similar request would be made in the Senate by the Senate conferees, and in this way it was hoped to remedy the defect in the conference report without further delay.

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<sup>1</sup>First session Seventy-third Congress, Record, p. 6061; Senate Journal, p. 300.

<sup>2</sup>Royal S. Copeland, of New York, Presiding Officer.

<sup>3</sup>First session Sixty-ninth Congress, Record, p. 8612.

<sup>4</sup>Nicholas Longworth, of Ohio, Speaker.

<sup>5</sup>Record, p. 8617.

<sup>6</sup>After conference reports are agreed to modifications may be effected by concurrent resolution, V. 6536, 6537.

<sup>7</sup>First session sixty-sixth Congress, Record, p. 2101.

Mr. Joseph Walsh, of Massachusetts, objected and maintained that a conference report could not be modified in this manner, however immaterial the defect.

The Speaker<sup>1</sup> sustained Mr. Walsh's contention and held that the proper remedy was to recommit the bill to the committee of conference for correction.

Accordingly, the conference report was recommitted, and being again reported with the desired corrections, was agreed to on the same day.

**3318.** On September 19, 1918,<sup>2</sup> Mr. Joseph Walsh, of Massachusetts, rising to a question of privilege, called attention to a number of clerical errors in the conference report on the bill (H. R. 11283) amending the Federal reserve act, agreed to by the House on the preceding day.

The errors having been verified, Mr. Carter Glass, of Virginia, preferred a request for unanimous consent that the Clerk be authorized to make the corrections.

Mr. Martin D. Foster, of Illinois, objected that it was not in order to amend a conference report.

The Speaker<sup>3</sup> sustained the point of order.

**3319. Recognition to move recommitment of a conference report is due Members opposed to the report, regardless of party affiliations, but in the absence of other considerations preference is accorded Members of the minority**—On February 14, 1919,<sup>4</sup> the House was considering the conference report on the bill (H. R. 13274) validating informal war contracts, when Mr. Finis J. Garrett, of Tennessee, submitted a parliamentary inquiry as to who was entitled to move to recommit the report.

The Speaker<sup>3</sup> replied:

The first man who gets up in opposition to the bill is entitled to it. The Chair has always given preference in making the motion to recommit to the minority. Still, the rule is for the man who qualifies to oppose the bill to have that right.

The Chair will recognize the gentleman from Oklahoma, if he qualifies. Is the gentleman from Oklahoma opposed to this bill?

Mr. Charles D. Carter, of Oklahoma, referred to, replied that he was opposed to the report with an amendment which it carried.

The Speaker said:

If the gentleman will qualify without any limitation, the Chair will recognize him.

**3320. The motion to recommit a conference report to the committee of conference is admitted under the Senate practice.**—On October 5, 1914,<sup>5</sup> the Senate was considering the conference report on the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, when Mr. James A. Reed, of Missouri, moved to recommit the conference report to the committee of conference.

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<sup>1</sup>Frederick H. Gillett, of Massachusetts, Speaker.

<sup>2</sup>Second session Sixty-fifth Congress, Record, p. 10499.

<sup>3</sup>Champ Clark, of Missouri, Speaker.

<sup>4</sup>Third session Sixty-fifth Congress, Record, p. 3355.

<sup>5</sup>Second session Sixty-third Congress Journal, p. 195; Record, p. 161687.

Mr. Charles A. Culberson, of Texas, objected that the motion was unprivileged. The Vice President <sup>1</sup> ruled:

The pending question was, of course, and has been for days, on agreeing to the conference report. The Senator from Missouri now moves to recommit the bill to the conferees. The Chair, in the course of a week, has examined most of the decisions of the Senate of the United States upon the question. There have been some rulings against the recommitment of a conference report, but the great majority of the rulings are to the effect that if the Senate chooses so to do it can recommit a conference report. The Chair holds the motion to recommit without instructions to be in order.

**3321. Formerly announcement of the recommitment of a conference report was messaged to the Senate, but under the modern practice the other House is not notified, and managers on the part of the House carry the papers back to conference, and a new report is formulated.**—On June 30, 1919,<sup>2</sup> a message was received in the Senate announcing that the House had recommitted to the committee of conference the Army appropriation bill.

The message was accompanied by the papers.

The message having been reported in the Senate, Mr. James W. Wadsworth, of New York, rising in his place, objected to receipt of the message and said:

Mr. President, I desire to make a statement to the Senate.

The conferees on the Army bill reached a full and complete agreement Saturday midnight. The conferees on the part of the House submitted their report to the House to-day. After an extended debate a motion was made to recommit the bill to the conference committee, and that motion was adopted by the House of Representatives. Apparently, the motion was regarded as a message from the House to the Senate, and the papers have been sent over here by an official messenger of the House, and the Senate has been officially notified that the House has adopted a motion to recommit.

I believe, Mr. President, that this is not a message which can be properly sent to the Senate. The situation is this: The Senate conferees have not as yet submitted their report to the Senate. Therefore, we have not been discharged from the consideration of the matters upon which the two Houses are in difference. The Senate conferees are still authorized, as it were, to meet with the House conferees upon their request; and it occurs to me that these papers should be returned to the House. Their motion to recommit the bill to the conference committee affects the House Journal alone, not the Senate Journal; and upon the invitation or request of the House members of the conference committee, the Senate members of the conference committee will gladly meet with them.

The Vice President <sup>1</sup> ruled:

The papers should go back.

**3322.** On February 22, 1921,<sup>3</sup> on a motion of Mr. George Holden Tinkham, of Massachusetts, modified by an amendment of Mr. Alben W. Barkley, of Kentucky, the House recommitted the conference report on the first deficiency appropriation bill with instructions to the managers on the part of the House to concur in Senate amendment No. 30 increasing the appropriation for enforcement of the national prohibition act.

However, the messages transmitted to the Senate on this and subsequent days do not announce the recommitment of the report. Prior to this time it was the

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<sup>1</sup> Thomas R. Marshall, of Indiana, Vice President.

<sup>2</sup> First session Sixty-seventh Congress, Record, p. 2074.

<sup>3</sup> Third session Sixty-sixth Congress, Record, p. 3645.

custom of the House to notify the Senate of such action, but from this time the practice was discontinued and the other House is no longer informed of the recommitment of conference reports. When recommitted, managers on the part of the house carry the papers back to conference and a new report is formulated.

**3323. In an exceptional instance the Senate transmitted a message to the House announcing recommitment of a conference report, but did not transmit the papers.**—On May 23, 1928,<sup>1</sup> a message was transmitted to the House announcing that the Senate had recommitted to the committee of conference the joint resolution (S. J. Res. 46) providing for the utilization of the Muscle Shoals plant in the manufacture of fertilizer.

On receipt of the message<sup>2</sup> in the House, Mr. Carl R. Chindblom, of Illinois, submitted a parliamentary inquiry as to the parliamentary situation and inquired whether a report had been made by the House conferees.

The Speaker<sup>3</sup> replied that the managers on the part of the House had not reported and therefore had not been discharged and that the committee of conference was still in existence and has jurisdiction of the report as recommitted.

In response to a question from Mr. John Q. Tilson, of Connecticut, the Speaker explained that the papers properly remained with the conferees on the part of the Senate.

Answering a further inquiry by Mr. William B. Bankhead, of Alabama, the Speaker held that no action on the message would be taken by the house, as the matter was in the hands of the committee of conference, and no action was in order in the House until report of the conference was received.

**3324. Overruling a decision of the Chair, the Senate held it was not in order to request the House to return papers in possession of the conferees.**—On April 12, 1918,<sup>4</sup> in the Senate, Mr. Wesley L. Jones, of Washington, proposed to enter a motion to reconsider the vote by which the Senate on the previous day had rejected the conference report on the bill (S. 383) to punish the willful destruction of war material and to request the House to return the papers to the Senate.

Mr. Henry Cabot Lodge, of Massachusetts, said he had been informed that the House had agreed to the request of the Senate for a conference, and made the point of order that the motion was not in order, for the reason that the papers were no longer in possession of the House, but were in the custody of the committee of conference.

The Presiding Officer<sup>5</sup> held that inasmuch as the Senate had not been notified of the action of the House in agreeing to conference, the motion to request the return of the papers was in order and should be decided by the Senate without debate.

Thereupon, Mr. Jacob H. Gallinger, of New Hampshire, appealed from the decision of the Chair.

The question being submitted to the Senate, and the yeas and nays being ordered the yeas were 29 and the nays were 35, and the decision of the Chair was not sustained.

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<sup>1</sup> First session Seventieth Congress, Record, p. 9606.

<sup>2</sup> Record, p. 9664.

<sup>3</sup> Nicholas Longworth, of Ohio, Speaker.

<sup>4</sup> Second session Sixty-fifth Congress, Record, p. 5013.

<sup>5</sup> Andrieus A. Jones, of New Mexico, Presiding Officer.

**3325. The fact that a conference report has been previously recommitted to the committee of conference with instructions, does not precluded a motion to recommit the amended report.**—On September 13, 1922,<sup>1</sup> the House recommitted to the committee of conference the conference report on the tariff bill with instructions pertaining to duties on potash and dyes.

On September 15,<sup>2</sup> the conference report modified to conform to the instructions imposed on the conferees was again taken up for consideration.

The previous question having been ordered, Mr. John N. Garner, of Texas, moved to recommit the report to the committee of conference with instructions relating to the rates of the sugar schedule.

Mr. Horace M. Towner, of Iowa, cited paragraph 4 of Rule XVI, reading—

After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order.

and made the point of order that one motion to recommit having been previously entertained it was not in order to now offer a second motion recommit.

The Speaker<sup>3</sup> ruled:

If this were a novel question the Chair would be disposed to give more consideration to the points raised by the gentleman from Iowa, but the right to a motion to recommit after the previous question has been ordered is of many years' standing. This very question, whether when the House had recommitted a bill and it came back another motion to recommit could be offered, arose under Speaker Carlisle, who, in answer to the claim that there having been one motion to recommit which succeeded, there could not be another, said:

"This is not the same proposition at all. At the time the House recommitted the bill to the Committee on Appropriations, with instructions to report it back after striking out a certain clause, there was in the bill a provision to pay certain employees of the Government a month's extra compensation. The bill being then on its passage, it was recommitted to the Committee on Appropriations under these instructions. It now comes back under a rule of the House, and is on its third reading, and open for further amendment. The bill does not now contain that clause. It is an entirely different report from the Committee on Appropriations from that upon which the House was acting an hour or so ago. \* \* \* Under the rule there can be but one motion to recommit the bill when the question is on its passage, and no other motion can be made. But this is a different bill, a different report from the committee, and the motion is in order."

It seems to the Chair the principle then enunciated covers this case. This is a different report from the one which the motion to recommit was made yesterday, for the conferees have changed it. If the Chair should rule in accordance with the suggestion of the gentleman from Iowa, it would never be possible to have the motion to recommit on any conference report, if when the bill was on its passage there had been one motion to recommit, because under that logic, there having been one motion to recommit, there could never be another. The House is well aware of the constant practice to the contrary. The case which the Chair referred to once before to-day, of the Army bill at the beginning of the war, is in point. If the Chair remembers correctly it went back to the conference committee several times under new motions to recommit. The Chair is constrained by the continuous practice of the House and by the precedents to overrule the point of order.

**3326. When a conference report is recommitted to the committee of conference, it is not subject to further action in the House until again reported by the managers.**—On May 12, 1917,<sup>4</sup> the House agreed to a motion by Mr.

<sup>1</sup> Second session Sixty-seventh Congress, Record, p. 12531.

<sup>2</sup> Record, p. 12717.

<sup>3</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>4</sup> First session Sixty-fifth Congress, Record, p. 2216.

Daniel R. Anthony, of Kansas, that the conference report on the bill (H. R. 3545) to increase the Military Establishment be recommitted to the committee of conference with instructions providing for the organization of four infantry divisions.

The vote having been announced, the Speaker<sup>1</sup> held, in response to a parliamentary inquiry from Mr. S. Hubert Dent, Jr., of Alabama, that the bill was thereby returned to the jurisdiction of the conferees to await their report.

**3327.** On February 14, 1919,<sup>2</sup> the conference report on bill (H. R. 13274) to validate informal war contracts, was under consideration in the House, when on motion of Mr. William H. Stafford, of Wisconsin, it was recommitted to the committee of conference with instructions.

Mr. Otis Wingo, of Arkansas, inquired as to the status of the report after recommitment.

The Speaker replied that it had been returned to the conferees.

**3328. A conference report having been recommitted to the committee of conference, the papers are no longer before the House, and no motion for disposition of the amendments in disagreement is in order.**—On April 3, 1922,<sup>3</sup> the House recommitted to the committee of conference the conference report on the independent offices appropriation bill with instructions to the managers on the part of the House not to agree to any proposition involving the payment of salaries under the Shipping Board in excess of \$25,000.

Thereupon, Mr. William R. Wood, of Indiana, proposed to secure the opinion of the House on a number of Senate amendments in disagreement.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the conference report having been recommitted, the bill and papers were no longer before the House.

The Speaker<sup>4</sup> sustained the point of order and said:

The Chair is disposed to think inasmuch as the bill has to go back to the conferees with the conference report, that would carry with it the whole subject matter.

The House has disagreed to all of the Senate amendments that are not yet disposed of, and these amendments have already been sent to conference. The House just recommitted the conference report, and all of those amendments are now in the hands of the conferees.

The Chair thinks that it would undoubtedly save time if we could vote on these amendments now, but the Chair finds it difficult to see how the House can legally do it.

The Chair does not see, inasmuch as the bill and report go back to conference, how you can separate the matters in disagreement from the bill.

The Chair rules that the matter has all gone to conference.

**3329. When conferees report that they have been unable to agree, the report is not acted on by the House.**—On February 5, 1919,<sup>5</sup> Mr. S. Hubert Dent, Jr., of Alabama, called up the conference report on the bill (H. R. 13274) for the validation of informal war contracts, reporting that the conferees of the two Houses had been unable to agree.

<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> First session Sixty-fifth Congress, Record, p. 2397.

<sup>3</sup> Second session Sixty-seventh Congress, Record, p. 4943.

<sup>4</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>5</sup> Third session Sixty-fifth Congress, Record, p. 2757.

The Clerk having read the report, Mr. Dent moved that the House agree to the report as read.

The Speaker declined recognition for that purpose.

Mr. James R. Mann, of Illinois, submitted that the conference report must be disposed of before action could be taken on the amendment in disagreement.

The Speaker<sup>1</sup> held that as the conferees had reported no action there was nothing, to which the House could agree, and recognized Mr. Dent to move to insist on disagreement and to agree to the conference asked by the Senate.

**3330. At the close of an effective conference the papers change hands and the managers on the part of the House agreeing to the conference submit the papers and the report to their House, which acts first on the report, but in exceptional cases where managers on the part of the house agreeing to conference have surrendered the papers, inadvertently or otherwise, the report has been first received by the other House.**

**The House is governed by the rules of Jefferson's Manual in all cases where they are applicable and in which they are not inconsistent with the standing rules and orders of the House.**

On August 12, 1911,<sup>2</sup> the Senate agreed to the conference asked by the House on the disagreeing votes of the two Houses on the bill (H. R. 11019) revising the tariff rates of the wool schedule.

The committee of conference agreed to a report, but at the close of the conference, through inadvertence or otherwise, the papers were surrendered to the House conferees, who submitted them with their report to the House before the report had been submitted to the Senate.

When the report was presented in the House by Mr. Oscar W. Underwood, of Alabama, for printing under the rule, Mr. James R. Mann, of Illinois, made the point of order that the report could not be considered in the House until disposed of in the Senate.

In debating the point of order, Mr. Mann said:

Mr. Speaker, I think the gentleman from Alabama is mistaken when he says that the House now has physical possession of the papers which lie on the Speaker's desk. In the first place, they are not on the Speaker's desk; and in the second place, when the gentleman from Alabama presented the papers, I made the point of order that he had no right to present them. If the Speaker determines that he has no right, they are not in the possession of the House; they are in the possession of the gentleman from Alabama, and he should give them into the possession of the Senate conferees, where they belong. If they had been presented to the House without a point of order being raised, the House would then have been in physical possession of the papers, and would have to determine what its course should be.

Mr. Speaker, this question goes way beyond the question as to which body shall act first upon the wool tariff bill. If the Speaker determines that the House conferees in possession of the papers can keep them after the conference report is agreed upon, no one can ever tell in the House, except the conferees, which body will be called upon to act first upon any conference report. Orderly procedure is necessary to preserve a fair consideration and an honest consideration of measures. We know now that under the rules, as they have been made and construed, the body asking for the conference acts last upon the conference report, and that the body agreeing to the conference

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<sup>1</sup> Champ Clark, of Missouri, Speaker.

<sup>2</sup> First session Sixty-second Congress, Record, p. 3872.

acts first upon the conference report. But if the contention of the gentleman from Alabama is agreed to, it rests solely within the will of the conferees of one body. It will hardly do to say that the Senate consented to this; the Senate has had nothing to do with it.

The Senate conferees can have nothing to do with it. The house conferees were in possession of the papers and retained them. If they could retain them at all, they could retain them under any conditions. It is not sufficient to say that the Senate conferees permitted the papers to be retained. He who has possession of the papers can retain possession, if he is acting within his rights; and if the gentleman from Alabama has the right to ask the House to act first, because he presents physical possession of the papers, then any House conferees will have the same rights in the future, regardless of whether the Senate conferees want the papers or do not want the papers.

Will we follow the precedent? Rule XLIII provides:

"The rules of parliamentary practice comprised in Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and the House of Representatives."

There being no special standing rule and order of the House on this subject, Jefferson's Manual controls. It is one of the rules of the House, and Jefferson's Manual plainly states that the conferees of the House asking for the conference are to leave the papers with the conferees of the other body. It has not been a matter of dispute, as suggested by the gentleman from Alabama. I have searched the precedents. There is no case where anyone has ever contended that in case the conferees reached an agreement, it was not necessary to transfer the papers. There has been some controversy where the conferees reported that they could not reach an agreement as to which set of conferees was entitled to the papers, but there is no case in the books, there is no case in the records, where anyone has ever before contended that when a conference committee reached an agreement this rule of Jefferson's Manual was not binding and did not require the physical possession of the papers to go to the conferees representing the body which agreed to the conference—in this case, the Senate.

I hope the exigencies of the case in this instance are not so strenuous that we are to violate the invariable practice of 100 years and the rules of the House.

Mr. Joseph G. Cannon, of Illinois, addressed the Chair in support of the position taken by Mr. Mann.

The Speaker<sup>1</sup> ruled:

The point of order raised by the gentleman from Illinois seems never to have been raised hitherto; that is, in any case where the conferees agree.

There is no question about this rule in Jefferson's Manual being a part of the rules of the House, and there is no question about what the procedure would be, if nothing had been done to vary it. The papers under that rule, without anything else being done or said to influence it would go to the Senate. The situation here is that the gentleman from Alabama undoubtedly had physical possession of the papers. As suggested by the gentleman from Illinois there are two or three ways of getting physical possession of the papers. One is by violence. If that is to be the method of procedure, the Speaker could discreetly and judiciously, if he thought there was going to be any trouble about it, pick the conferees on account of their physical strength. But the gentleman from Alabama states, and until it is controverted, of course, his statement stands, that the Senate conferees voluntarily gave to him these papers, and he came into the House in physical possession of them and offers them to the House. Being in possession of the papers carries with it the presumption of right of possession.

There is still another remedy. If the House does not indorse the action of the conferees in agreeing among themselves for the gentleman from Alabama to have physical possession of these papers and to bring them in here, the House can correct the action of the House conferees by the simple process of passing a resolution and sending the papers to the Senate. The distinguished gentleman from Illinois, Mr. Cannon, says correctly that it is the law that where an agent exceeds his authority, his principal is not bound, which is true; but he states only half the legal proposition,

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<sup>1</sup> Champ Clark, of Missouri, Speaker.



the other half being that where the agent exceeds his authority and the principal indorses his action, the principal by the agent's act. The point of order is overruled.

**3331. On August 1, 1921;<sup>1</sup> Mr. Burton E. Sweet, of Iowa, in submitting for printing under the rule, the conference report on the bill (H. R. 6611) to establish a veterans' bureau, informed the House orally that the conferees of the other House had insisted on retaining the papers notwithstanding the House had agreed to the conference.**

Whereupon, Mr. James R. Mann, of Illinois said:

Mr. Speaker, I do not suppose it is possible to teach the Senate parliamentary law by any action we take in the House. They used to know in the Senate that the papers were transferred when a conference agreement was reached. The Senate having in its possession the papers when the conference report was signed, the papers should have been delivered by the Senate conferees to the House conferees. The House that agrees to the conference, acts on it first. Several times lately the Senate conferees, ignorant to parliamentary procedure, have insisted where they had the papers that they should retain them after the conference agreement had been reached.

I know that when the Underwood tariff bill was up and this question was raised the House that was not entitled to the papers had possession of the papers and brought the tariff-conference report into the House. The Speaker held—I will not say incorrectly—that while they had violated parliamentary procedure the question was who actually had the papers, and as we had them, we proceeded to dispose of the conference report.

No action was taken and there is no further reference to the matter in the proceeding of either House.

**3332. A conference having failed to reach a result, the papers are not surrendered, but remain with the managers of the House asking conference and that House first receives the report and first takes action on the matters in disagreement.**

**A report that conferees have been unable to agree is not acted on by the House and is therefore exempted from the requirement that it be printed in the Record before action can be taken on matters in dispute.**

On May 19, 1930,<sup>2</sup> the House disagreed to the amendments of the Senate to the District of Columbia appropriation bill, and requested a conference with the Senate on the disagreeing votes of the two Houses.

The Senate having agreed to conference, and the conferees having met, Mr. Robert G. Simmons, of Nebraska, from the committee of conference, on June 17,<sup>3</sup> returned the papers to the House with a report announcing that the conferees had been unable to reach any conclusion.

Thereupon, and before the report had been printed in the Record, the Speaker recognized Mr. Simmons to move that the House further insist on its disagreement to the matter in dispute.

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<sup>1</sup>First session Sixty-seventh Congress, Record, p. 4485.

<sup>2</sup>Second session Seventy-first Congress, Record, p. 9145.

<sup>3</sup>Record, p. 11016.